APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,991	08/21/2003	Kendyl A. Roman		1131

36664   7590   07/26/2007
KENDYL A ROMAN
730 BARTEY COURT
SUNNYVALE, CA 94087

EXAMINER
PHAM, MICHAEL

ART UNIT	PAPER NUMBER
2167	

MAIL DATE	DELIVERY MODE
07/26/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

		Application No.	Applicant(s)
Advisory Action **Before the Filing of an Appeal Brief**		10/646,991	ROMAN ET AL.
		Examiner Michael D. Pham М.Р.	**Art Unit** 2167

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>10 July 2007</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ They raise the issue of new matter (see NOTE below);

   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: <u>none</u>.

   Claim(s) objected to: <u>none</u>.

   Claim(s) rejected: <u>1-20</u>.

   Claim(s) withdrawn from consideration: <u>none</u>.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s): _____.

13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because:

In regards to claim 1.

The preamble is not given any weight, as noted in the previous action. Even if it were, figure 1 and 0056 disclose network based application, and 0056 discloses themes (i.e. common look and feel).

As addressed in the final office action Lee disclosed independent claim 1 as below and further for clarity:

"a database comprising data tables and storage" as in figure 1, elements 14, 18, 30

"a code generator intefacing with said database" as in paragraph 0033 and figure 1, as generator 28 on computer 12 is connected to elements shown in figure 1.

"toolkit programs, stored in said database, comprising:" as in figure 1 and 0035, designs are stored in database 30.

"i. application layer" as 0004 a data tier, compiled code interacts with database
"ii. interface layer" as 0004, presentation tier
"iii. a core layer" as 0004, business tier, compiled code serves user requests/enforces business rules.

"d. code definition files providing input to the code generator" as 0036, design passed to generator 28.

"e. data defintion files providing for defining said data tables" as in 0036, generator 28 provides reformated XML meta document. 0064, generator 28 creates a database including tables

"wherein said code generates code for said application processing code defintion files" as 0064, generateor 28 ensures the designer specified destinations. 0036, design is passed to generator 28 where an XML meta document is created. 0039, generates software applicaton.

"wherein said data definition files configure said data tables to support said toolkit and said application" as 0062, XML configures relationships between entities. 0036, generator 28 takes converts design to XML meta document. In other words. data defintion files support the toolkit (design) and generated software application (appliation).

"wherein said data tables comprise user data and operational data"as 0065, generator 28 creates stored procedural code within the generated database. procedural code is operational data and user data.

"whereby the operation of a plurality of portions of said application is modified by making a single modification to said code defintion files" as 0068, customized application process may include direct manipulation or modification of the generated software application to add custom features not included by default by use of design program 26.

As addressed in the final office action Lee disclosed independent claim 20 as below and further for clarity:

"a. defining data in data definition files" as 0062, xml meta data document is created with entities, relationships, etc.

"b. specifying code in code defintion files" as 0036 design database files

"c. generating data tables based on said data defintion files" as 0062, xml creates relationships and entites. 0064, generator 28 creates a database including tables.
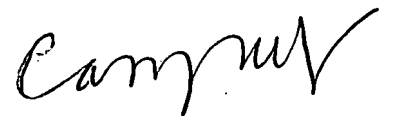
"d. generating code based on said code defnition files" as 0036 design database file passed to generator 28, where it is reformatted into XML meta data document

"e. storing said generated code in said database along with said toolkit" as 0065, generator 28 creates stored procedural code in database.

"f. modifying data stored in said data associated with at least one of said websites, whereby said system will dynamically generate web pages for at least one of said websites having a substantially different look or operation than at least one other of said websites" as 0036, in creating new applications it is often useful to reuse successful designs from previous applications. That designs may be spliced to create new designs.

In regards to dependent claims, dependent claims have been addressed in the final office action. And further are dependent to rejected independent claims and are therefore further rejected.

Conclusion: The Lee reference anticpates applicant's claimed invention. Further as stated in the office action, numerious arguments made by applciant are directed to more specific aspects within the specifications which have not been claimed. This is analogous to claiming a car when the specifications are directed to a truck. Where a car is prior art. Therefore, it is respectfully submitted that the claims are suggested by the cited references. Accordingly, the rejections are maintained.

Cam Y Truong
Primary Examiner